# IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

## SPECIAL CIVIL APPLICATION No. 843 of 1987
## WITH
## SPECIAL CIVIL APPLICATION No. 6862 of 1987

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE K.A.PUJ**

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| 1 | Whether Reporters of Local Papers may be allowed to see the judgment ? |
| 2 | To be referred to the Reporter or not ? |
| 3 | Whether their Lordships wish to see the fair copy of the judgment ? |
| 4 | Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ? |
| 5 | Whether it is to be circulated to the civil judge ? |

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**B D PATEL - Petitioner**
**Versus**
**ARUNKUMAR NIGAM OR SUCCESSOR & 1 - Respondents**

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**Appearance :**
MS SHEHNAZ B SHETHNA for Petitioner.
MR SV PARMAR for Respondent No. 1.
RULE SERVED for Respondent No. 2.

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**CORAM : HONOURABLE MR.JUSTICE K.A.PUJ**

**Date : 16/12/2005**

**COMMON ORAL JUDGMENT**

1.Special Civil Application No. 843 of 1987 is filed by the petitioner challenging the impugned order of suspension passed by the District Development Officer on 23.02.1987.

2.Special Civil Application No. 6862 of 1987 is filed by the petitioner challenging the suspension order passed by the respondent No. 1 i.e. District Development Officer on 14.12.1987.

3.Initially, in both these petitions, the petitioner has sought the declaration of this Court to the effect that Rule 4-A (2) (a) of the Gujarat Panchayat Services (Discipline and Appeals) Rules, 1964 as ultra vires and unconstitutional. This Court has issued rule in Special Civil Application No. 843 of 1987 on 02.04.1987 and granted interim injunction

directing the respondent to allow the petitioner to resume his duties as Senior Accounts Clerk. Similarly, Special Civil Application No. 6862 of 1987 was also admitted by this Court on 23.02.1988 and interim relief was granted directing the respondent to allow the petitioner to resume his duties as Senior Accounts Clerk, Taluka Panchayat, Uchhal.

4.The Division Bench has passed an order in these two petitions on 23.11.1993 that L.P.A. No. 8 of 1991 which was directed to be heard along with these two Special Civil Applications, has been dismissed as withdrawn. The office was, therefore, directed to post these two Special Civil Applications independently before the appropriate Court. That is how these two Special Civil Applications are placed before this Court for appropriate order.

5.The impugned suspension orders have been stayed

by this Court and the stay is in operation till this date and hence, it is not just and proper for this Court to disturb the said suspension orders. It appears to the Court that originally, stay was granted by this Court possibly on the ground that the vires of the rule was challenged. However, it appears that challenge to the said Rule was not entertained by the Division Bench and hence, these two Special Civil Applications were directed to be placed independently before the appropriate Court.

6.In both these matters, affidavit-in-reply was filed on behalf of the District Development Officer, Surat. It is stated therein that the suspension orders were passed on the basis of the criminal proceedings initiated against the petitioner. It is further stated that the petitioner has suppressed this material fact. It was, therefore, stated that the petitioner

has been placed under suspension as he was detained in police custody on remand from 18.08.1985 to 22.08.1985 which fact was brought to the notice of the D.D.O. By C.I.D. Police Inspector, Ahmedabad by his letter dated 27.11.1986. The petitioner has been placed under suspension as per the provisions of Rule 4-A (2) of the Gujarat Panchayat Services (Discipline and Appeals) Rules, 1964.

7.Since both these petitions are filed against the suspension orders and more than 18 years have passed after filing of the petition, it appears to the Court that the petitions might become infructuous and might not survive. In absence of the learned advocates appearing for the respective parties, it is not possible to ascertain the present status of the petitioner. The Court is, therefore, of the view that the petitioner is not interested in prosecuting these petitions after the expiry of period of

more than 18 years. There is all possibility that proceedings might have been dropped or culminated in other disciplinary actions. In any view of the matter, challenge to the suspension orders is of no consequence after 18 years. Both these petitions are, therefore, disposed of. Rule in each of these two petitions is discharged without any order as to costs.

8.It is, however, made clear that the Court has not gone into the merits of the matter and has not expressed any opinion. The Court, therefore, grants the liberty to the petitioner to approach this Court in case of any difficulty and if the need so arises in future.

9.With this observation, these two petitions are accordingly disposed of.

**[K.A. PUJ, J.]**

**S***avariya*